IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 06.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No.1514 of 2002

V.Veeraraghavan … Appellant

Vs.

1. The District Collector,
Coimbatore.

2. The Special Tahsildar
(Land Acquisition)
Adi-Dravida Welfare Dept.,
Coimbatore.

3. R.Govindarajan … Respondents

Appeal under Clause 15 of the Letters Patent against the order of the learned single Judge dated 07.02.2002 made in WP No.14189 of 1996.

For Appellant : Mr.N.Varadarajan
For R-1 & R-2 : Mr.C.Thirumaran,
Government Advocate.
For R-3 : Mr.A.Dhiraviyanathan.

J U D G M E N T

P.SATHASIVAM, J.

Aggrieved by the order of the learned single Judge, dated 07.02.2002, made in W.P. No.14189 of 1996, the writ petitioner has preferred the above Appeal.

2. According to the appellant/writ petitioner, he is the owner of an extent of 15.60 acres of land in S. No.788 of Karamadai village, Mettupalayam Taluk, Coimbatore District. The said lands originally belonged to his father Veerasamy Chettiar. On his death, those lands along with other lands remained unpartitioned between himself and his brother Subramanian. By Judgment and decree in O.S.

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No.865 of 1997 on the file of the Subordinate Court, Coimbatore, dated 31.10.1988, he was declared as the owner of the property. He was in possession of the lands sought to be acquired even before the suit was filed and continued to be in possession.

The first respondent sought to acquire the above mentioned lands for the purpose of providing house sites to Adi Dravidars. He issued notice under Section 4(1) of the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978. The notification was published in the District Gazette on 04.11.1995. In the said notification, it is wrongly stated that the lands in S. No.788/2 belong to Mettupalayam Gobald Motor Private Limited. No notice under Section 4(2) of the Act was issued. The respondent straight away proceeded to pass an award on 26.2.1996 and fixed the compensation without any notice. Hence, he filed Writ Petition before this Court.

3. The District Collector, Coimbatore / first respondent filed a counter affidavit, disputing the various averments made by the petitioner. According to him, as per Revenue Records, the lands in S.F.No.788/2 measuring an extent of 3.24.0 Hectares, ie., 8 acres, stands in the name of M/s.Gobald Motor Service (P) Ltd., accordingly, notices in respect of Section 4(1) Notification and 5-A enquiry were issued to the land owner. There is no procedural flaw involved in the proceedings. He further stated that, after complying with all the mandatory requirements, award was passed on 26.2.1996. House site pattas were issued to 287 Adi Dravidars on 19.3.1996. Pointing out the above details, he prayed for dismissal of the Writ Petition.

4. The learned Judge, by order dated 07.02.2002, taking note of the decision of the Supreme Court reported in AIR 1997 SC 482 (Municipal Corporation, Greater Bombay v. Industrial Development Investment Company Private Limited and others) and of the fact that possession was already taken and house sites were handed over to the Adi Dravidars, declined to interfere and dismissed the Writ Petition, hence, the above Writ Appeal.

5. Heard Mr.N.Varadarajan, learned counsel for the appellant; Mr.C.Thirumaran, learned Government Advocate for respondents-1 and 2; and Mr.A.Dhiraviyanathan for R-3.

6. Mr.N.Varadharajan, learned counsel appearing for the appellant/petitioner, by drawing our attention to the decree in O.S. No.865 of 1987 on the file of Sub Court, Coimbatore, and the acquisition proceedings, contended that inasmuch the petitioner is the owner of the land in question, in the absence of any notice, the entire acquisition proceedings are liable to be quashed.

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7. On the other hand, learned Government Advocate and the counsel appearing for R-3/beneficiary submitted that the acquisition proceedings were completed by complying with all the mandatory requirements and in view of the fact that, after taking possession, the lands were handed over to the Adi Dravidars, there cannot be any interference at this stage.

8. In the light of the contention raised by both parties, we verified the records produced by the learned Government Advocate as well as the specific stand taken by the District Collector in his counter affidavit filed before the learned single Judge. The revenue records show that the lands in S.F.No.788/2 measuring an extent of 3.24.0 hectares (8 acres) stand in the name of M/s.Gobald Motor Service (P) Limited. The records also reveal that notice was sent to M/s.Gobald Motor Service (P) Limited in respect of Notification under Section 4(1) and enquiry under Section 5-A of the Act. It is also brought to our notice that even for award enquiry, notice was sent to them only, and after completing all the formalities, award was passed on 26.2.1996.

9. As per the revenue records, the Writ Petitioner was not the owner of the land acquired and the Revenue Officials sent notices to the person whose name finds place in their records. No doubt, learned counsel for the appellant/petitioner submitted that both Gobald Motor Private Limited and the Writ Petitioner sent letters on 20.5.1995 and 15.6.1995 to the Joint Director, Government of Tamil Nadu, Adi Dravida & Tribal Welfare Department, and the Joint Secretary, Government of Tamilnadu, Adi-Dravida & Tribal Welfare Department, conveying their stand. In view of the fact that under Tamil Nadu Act, the District Collector is the competent authority to decide, we are of the view that the information sent to the Joint Director and the Joint Secretary is in no way helpful to the stand taken by the Writ Petitioner. It is also not in dispute that, in view of the fact that the District Collector alone is empowered to consider and take appropriate steps for implementation of the Harijan Welfare Scheme by acquiring suitable lands, the Government have no role to play. Courts have taken a view that the Land Acquisition officer is expected to proceed and issue notice as per the entries made in the revenue records, however, if correct information is brought to the notice of the Officer concerned, he is duty bound to enquire into the same and rectify the mistake. As stated earlier, the letters referred to above were not sent to the authority concerned, viz., the District Collector. In such circumstances, both the letters/communications are not helpful to the stand taken by the writ petitioner.

10. Apart from the above factual details, it is seen from the counter affidavit of the District Collector, Coimbatore, that the award was passed on 26.2.1996 and House site pattas were issued

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on 19.3.1996 to 287 poor Adi Dravidars. Learned counsel for the third respondent/beneficiary also informed us that, after taking possession, the beneficiaries put up huts and are residing therein. In view of the above factual details, we are not inclined to accept the case of the appellant/petitioner and we hold that the learned Judge is perfectly right in dismissing the Writ Petition.

11. In the light of what is stated above, we do not find any error or infirmity in the order of the learned single Judge. Consequently, Writ Appeal fails and the same is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

JI.

To

1. The District Collector, Coimbatore.

2. The Special Tahsildar (Land Acquisition)
Adi-Dravida Welfare Dept., Coimbatore.

+1cc to Mr.N.Varadarajan, Advocate Sr 28921
+1cc to Mr.A.Dhiraviyanathan, Advocate Sr 29018

MAB (CO)
km/11.7.

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